IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 6310/2002

JHUMAR LAL Vs. UNION OF INDIA & ORS.

DATE: 11.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. N.K. Maloo for the petitioner.
Mr. Deepak Goyal for the respondents.

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Learned counsel for the petitioner at the outset submits that the application for review under section 7-B of the EMF & MP Act, 1952 has been rejected by the Assistant P.F. Commissioner vide its order impugned dated 07.08.2002 against the order which has been passed on 22.11.2001 under Section 7-A assessing the dues for the period from 5/95 to 12/2000 ex parte amounting to Rs. 5,45,125.00 and this application has been rejected while exercising power conferred under Section 7-B of the Act, against which this writ petition has been preferred by the petitioner.

Learned counsel for the petitioner submits that admittedly the assessment order has been passed ex parte without hearing the petitioner and the application was rejected on the ground that the same

has been filed after expiry of prescribed time limit of 45 days besides other reasons. As per the petitioner, there was no delay but the application which was earlier filed was not filed in the prescribed proforma, therefore, he was asked to file the same in the prescribed proforma and the time consumed in filing the application in prescribed proforma be treated as delay.

Having considered the rival submission of the respective parties and upon careful perusal of the impugned order dated 07.08.2002, this Court is of the view that the ex parte order 22.11.2001 deserves to be quashed and set-aside and the same is hereby quashed and set-aside with direction to pass fresh assessment order under Section 7-A of the Act for the period from 1995 to 2000 after giving opportunity of being heard to the petitioner. The petitioner is expected to co-operate with the proceedings for early disposal of the assessment order.

With these observations, the writ petition stands disposed of and the matter is remanded back to the Assessing Authority for fresh assessment after giving opportunity of being heard to the parties.

The stay order dated 18.9.2002 granted by this Court stands vacated with liberty to the petitioner to

move proper application for staying the recovery proceedings.

The stay application also stands disposed of.

(K.S. RATHORE),J.

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